



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Release Number: **201113034**
Release Date: 4/1/2011
Date: January 5, 2011

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Contact Person:

Identification Number:

Telephone Number:

Employer Identification Number:

Uniform Issue List:
501.00-00

Legend:

A = XXXXXX
B = XXXXXX
C = XXXXXX
D = XXXXXX
E = XXXXXX
F = XXXXXX
G = XXXXXX

Date = XXXXXX

Dear

This is in response to your ruling request dated March 10, 2009 regarding the effect of on your exempt status under section 501(c)(3) of the Internal Revenue Code (the "Code") and sections 1.170A-9T(f)(10) and (11) of the Federal Tax Regulations (the "regulations").

FACTS:

You were established by a certain bank by declaration of trust entitled Resolution and Declaration (the "Resolution"). The Resolution was amended thereafter, but the purposes were not altered and have been the same since your inception. Your purposes, according to the Resolution, are to assist and promote the welfare of A, the residents thereof, and those employed therein.

You were granted exemption from federal income taxes under section 501(c)(3) of the Code on Date.

There are currently two banks serving as your trustees under the Resolution. Generally, the trustee banks accept any gift, grant, devise or bequest in trust for charitable, scientific,

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cultural, and educational uses and purposes to assist and promote the welfare of A, the residents thereof, and those employed therein.

You have a distribution committee that is tasked with directing the use and application of funds to charitable, scientific, cultural, and educational purposes that will most effectually accomplish your purposes. The distribution committee consists of seven members who are residents of A or its vicinity. Members of the distribution committee are chosen by the trustees and by an appointing authority. The appointing authority is currently comprised of B, C, the Chief Volunteer Officer of D, and E. The members of the appointing authority hold their position by virtue of their leadership positions in the local schools, charitable and civic organizations, and government.

You wish to amend and restate the Resolution to clarify certain matters. The changes you wish to make are as follows:

1. Increasing the size and flexibility of the distribution committee. The distribution committee will consist of between seven and nine citizens of the United States who are well acquainted with the needs of the area that you are designed to serve. The number of members will be set by the current distribution committee by a vote of the majority of the entire distribution committee. No decrease in the number of members of the distribution committee shall shorten the term of any incumbent member.
2. Replacing B with an appointee of F or its successor, who shall be a member and duly elected officer of the board of directors of F or its successor and shall live or work in A or serve on the board of directors of an organization that is exempt from federal income taxes under section 501(c)(3) of the Code and principally located in and serving the citizens and needs of A.
3. Replacing the Chief Volunteer Officer of D with an appointee of D or its successor, who shall be a member of and duly elected officer of the board of directors of D or its successor and shall live or work in A or serve on the board of directors of an organization that is exempt from federal income taxes under section 501(c)(3) of the Code and principally located in and serving the citizens and needs of A.
4. Replacing E with G.
5. Changing quorum and voting rules to reflect any change in the size of the distribution committee.
6. Correcting minor grammatical and sentence structure errors.

RULING REQUESTED:

You have requested the following ruling:

The proposed changes to the Resolution will neither negatively affect your exempt status under section 501(c)(3) of the Code nor your status under sections 1.170A-9T(f)(10) and (11) of the regulations.

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LAW:

Section 501(c)(3) of the Code, in pertinent part, exempts from federal income tax organizations that are organized and operated exclusively for charitable purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which do not participate in, or intervene in, any political campaign on behalf of (or in opposition to) any candidate for public office.

Section 1.170A-9T(f)(10) of the regulations states, in pertinent part, that a community trust will be considered a publicly supported organization, even if it does not meet a 33 1/3 public support test, if it is organized and operated so as to attract new and additional public or governmental support on a continuous basis sufficient to meet the facts and circumstances test.

Section 1.170A-9T(f)(3)(iii) of the regulations states that one factor in the facts and circumstances test used to determine if an organization is organized and operated so as to attract new and additional public or governmental support on a continuous basis is whether that organization has a representative governing body. Section 1.170A-9T(f)(3)(iii) of the regulations provides, in pertinent part, that an organization will be treated as having a representative governing body if it has a governing body (whether designated in the organization's governing instrument or bylaws as a Board of Directors, Board of Trustees, etc.) which is comprised of public officials acting in their capacities as such; of individuals selected by public officials acting in their capacities as such; of persons having special knowledge or expertise in the particular field or discipline in which the organization is operating; or, of community leaders, such as elected or appointed officials, clergymen, educators, civic leaders, or other such persons representing a broad cross-section of the views and interests of the community.

Section 1.170A-9T(f)(10) of the regulations indicates that a community trust generally has a governing body comprised of representatives of the particular community or area benefitted.

Section 1.170A-9T(f)(11) of the regulations establishes the requirements for separate funds to be treated as a component part of a community trust.

ANALYSIS:

The amendments that you propose to make to the Resolution will not change your purposes or activities. Your exemption under section 501(c)(3) of the Code is based on your purposes and activities. Therefore, your exemption will not be negatively impacted because of the amendments that you propose to make.

Your distribution committee may become larger because of your proposed amendments. The change does not bear on any requirement or factor contemplated by either section 1.170A-9T(f)(10) or (11) of the regulations. As a result, your status under sections 1.170A-9T(f)(10) and (11) of the regulations will not be affected by this proposed change.

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The composition of your appointing authority will change because of your proposed amendments to the Resolution. However, your appointing authority will continue to consist of leaders in the community and thus remain representative of the A area as defined in section 1.170A-9T(f)(3)(iii) of the regulations. Therefore, even if your appointing authority were considered a governing body and you failed to meet the 33 1/3 public support test, the change in composition of your appointing authority would not negatively impact your status as a publicly supported community trust under the facts-and-circumstances test of section 1.170A-9T(f)(3) and under sections 1.170A-9T(f)(10) and (11).

RULINGS:

Based on the information submitted, we rule as follows:

The proposed changes to the Resolution will neither negatively affect your exempt status under section 501(c)(3) of the Code nor your status under sections 1.170A-9T(f)(10) and (11) of the regulations.

This ruling will be made available for public inspection under section 6110 of the Code after certain deletions of identifying information are made. For details, see enclosed Notice 437, *Notice of Intention to Disclose*. A copy of this ruling with deletions that we intend to make available for public inspection is attached to Notice 437. If you disagree with our proposed deletions, you should follow the instructions in Notice 437.

This ruling is directed only to the organization that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

This ruling is based on the facts as they were presented and on the understanding that there will be no material changes in these facts. This ruling does not address the applicability of any section of the Code or regulations to the facts submitted other than with respect to the sections described. Because it could help resolve questions concerning your federal income tax status, this ruling should be kept in your permanent records.

If you have any questions about this ruling, please contact the person whose name and telephone number are shown in the heading of this letter.

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In accordance with the Power of Attorney currently on file with the Internal Revenue Service, we are sending a copy of this letter to your authorized representative.

Sincerely,

Theodore R. Lieber
Manager, Exempt Organizations
Technical Group 3

Enclosure
Notice 437